

Chad



**CONSOL Energy Inc.**

CNX Center  
1000 Consol Energy Drive  
Canonsburg, PA 15317-6506

phone: 724/485-4036  
Fax: 724/485-4837  
e-mail: [stangeary@consolenergy.com](mailto:stangeary@consolenergy.com)  
Web: [www.consolenergy.com](http://www.consolenergy.com)

**STAN GEARY**  
Senior Counsel

July 31, 2013

**Via Overnight Delivery**

Chief, Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, D.C. 20044-7611  
Re: DOJ No. 90-5-1-1-09916/1

Director, Office of Civil Enforcement  
U.S. Environmental Protection Agency  
Ariel Rios Building, Room 3142  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20460

NPDES Enforcement Branch Chief  
U.S. EPA Region III  
1650 Arch Street, 3WP42  
Philadelphia, PA 19103

Chief Inspector, Environmental Enforcement  
West Virginia Department of Environmental Protection  
601 57<sup>th</sup> Street, SE  
Charleston, WV 25304

Director, Division of Mining and Reclamation  
West Virginia Department of Environmental Protection  
601 57<sup>th</sup> Street, SE  
Charleston, WV 25304

Chief, Office of Legal Services  
West Virginia Department of Environmental Protection  
601 57<sup>th</sup> Street, SE  
Charleston, WV 25304

**RE: Consent Decree: *United States, et al v. Consol Energy Inc. et al*, Civil Action  
No. 1:11-CV-28, U.S. District Court, Northern District of West Virginia**

July 31, 2013

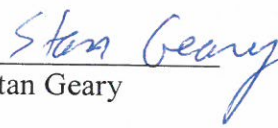
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Ladies and Gentlemen:

Pursuant to Paragraphs 42, 45 and 92 of the above referenced Consent Decree, enclosed is the Defendants' Quarterly Report for the second quarter of 2013. This is the ninth quarterly report under this Consent Decree.

Please contact me if you have any questions.

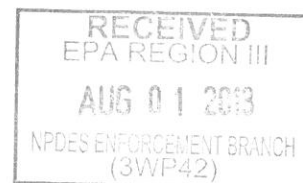
Sincerely,

  
Stan Geary

cc: W/Encl. via Email  
Nina Rivera  
Chad Harsh  
Laura Thoms

July 31, 2013

**QUARTERLY REPORT NUMBER 9  
SECOND QUARTER 2013  
NORTHERN WEST VIRGINIA CONSENT DECREE  
CIVIL ACTION NO. 1:11-CV-28  
U.S. DISTRICT COURT, NORTHERN DISTRICT OF WV**



Pursuant to Paragraph 42 of the above-referenced Consent Decree, the Defendants, CONSOL Energy Inc., Consolidation Coal Company and Windsor Coal Company (collectively CONSOL) submit this Quarterly Report for the second quarter of 2013. Unless defined herein, capitalized terms in this Quarterly Report will have the same meaning as defined in the Consent Decree.

This ninth quarterly report will address the progress in implementing the obligations of the Consent Decree through June 30, 2013.

**I. The Monongahela Basin Discharges Treatment System (Treatment System)**

**A. The Northern West Virginia Water Treatment Plant (Treatment Plant)**

Commissioning of the Treatment plant was completed by May 13, 2013. Training of the Treatment Plant operators was completed by May 13, 2013. CONSOL's contract operator, Veolia Water North America, began operating the Treatment Plant by May 30, 2013. Waste Management is the contract operator of the onsite landfill which commenced operation on April 11, 2013. There are still a number of punch list items to be completed by the construction contractor, but they do not interfere with the ability to meet the Chloride Limits at the Treatment Plant and at the Monongahela Basin Discharges.

In addition to the punch list items, the construction contractor is performing some upgrades to the treatment plant which are expected to be completed this quarter. The need to do these upgrades is not expected to interfere with the ability to meet the Chloride Limits at the Treatment Plant and at the Monongahela Basin Discharges.

Commencing on May 31, 2013, CONSOL has been performing the specific conductance monitoring required by Paragraph 27.a. of the Consent Decree. This monitoring will be conducted for the 90 day period required by the Consent Decree with the results submitted to WVDEP and EPA twice a month.

From May 31, 2013 through June 30, 2013, CONSOL collected the daily samples of the water sources specified in Paragraph 27.b. of the Consent Decree, had them analyzed and thereafter submitted the results to WVDEP and EPA.

**B. The Pipeline Collection System for the Treatment System**

The pipeline and pumping system became operational prior to May 13, 2013.

**C. The Landfill**

The Landfill became operational prior to May 13, 2013.

## II. The Monongahela Basin Discharges Interim Measures

There were six managed discharges covered by the Consent Decree (Blacksville No. 2 Mine, Wana discharge; Loveridge Mine, St. Leo, Sugar Run, and Llewellyn discharges; Four States Mine, Thorne discharge; and Robinson Run Mine, Lowe discharge). CONSOL ceased operating the managed discharges on May 30, 2013. There were no exceedances of the instream limits in the first quarter of 2013. There were three interruptions of the requirement to maintain continuous instream monitoring at the managed discharge downstream locations during the second quarter. These interruptions are described in the attached Notices of Noncompliance.

## III. The Ohio River Basin Discharges Relocation Measures

The Ohio River Basin discharge relocations consisted of two pipeline projects. The Shoemaker Pipeline Project involved relocating the Shoemaker Mine, NPDES Permit WV0004201, Outlet 003 and Outlet 018 discharges by piping the water to the Ohio River and discharging there through a diffuser. The Windsor Pipeline Project involved relocating the Windsor Mine, NPDES Permit WV1011456, Outlet 001 discharge by piping that water to the Ohio River. Both projects were completed by the Consent Decree compliance dates and both projects commenced discharging to the Ohio River by the October 31, 2011 compliance date. There were no violations of the effluent limits for chloride for the Shoemaker Pipeline discharges or the Windsor Pipeline discharges in the second quarter of 2013.

## IV. Completed or Missed Consent Decree Deadlines

The following table lists the Consent Decree obligations with completion dates through June 30, 2013, along with a reference to the Paragraph number of the Consent Decree where the obligation is stated. The Consent Decree compliance date is provided in black type and the date when the obligation was completed by CONSOL is provided in red type. The Consent Decree Compliance dates for the second quarter of 2013 were met (except the quarterly report for the first quarter was submitted on May 10, 2013 instead of by April 30<sup>th</sup>) as shown at the end of the table below.

<u>Obligation</u>	<u>Consent Decree Reference</u>	<u>Deadline (Black)</u>  <u>Completion Date (Red)</u>
Submit complete permit modification application to WVDEP requesting relocation of the discharges from WV0004201 Outlets 003 and 018 (Shoemaker)	¶ 40	January 14, 2011  January 7, 2011
Submit complete permit modification application to WVDEP requesting relocation of the discharge from WV1011456 outlet 001 (Windsor)	¶ 40	January 31, 2011  February 1, 2011

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<b><u>Obligation</u></b>	<b><u>Consent Decree Reference</u></b>	<b><u>Deadline (Black)</u></b>  <b><u>Completion Date (Red)</u></b>
Submit applications for permits necessary for construction and operation of the landfill associated with Treatment Plant	¶ 25	February 1, 2011  February 1, 2011
Complete final design for relocation of the discharges from WV0004201 Outlets 003 and 018 (Shoemaker)	¶ 40	March 15, 2011 On or before January 31, 2011
Select contractor for construction of Treatment Plant	¶ 25.b	March 18, 2011 March 18, 2011
Execute contract for construction of Treatment Plant	¶ 25.b	April 15, 2011 April 8, 2011
Complete final design for the relocation of the discharge from WV1011456 Outlet 001 (Windsor)	¶ 40	April 15, 2011 January 14, 2011
Execute any necessary contracts for the construction of the infrastructure required for the relocation of discharges from WV0004201, Outlets 003 and 018 (Shoemaker)	¶ 40	May 2, 2011 On or before April 30, 2011
Execute any necessary contracts for the construction of the infrastructure required for the relocation of discharges from WV1011456, Outlet 001 (Windsor)	¶ 40	May 31, 2011 March 10, 2011
Initiate construction of Treatment Plant	¶ 25	July 11, 2011 July 7, 2011
Payment of \$5,500,000 civil penalty to U.S. and State (50% each)	¶ 10	July 15, 2011 July 8, 2011
Submit Quarterly Report Number 1	¶ 42	July 31, 2011 July 27, 2011
Complete tasks related to the pipeline construction that so not require a preliminary engineering stage (i.e., property rights acquisition)	¶ 25	August 2, 2011 August 2, 2011
Complete final design of the Treatment Plant	¶ 25	August 5, 2011 August 5, 2011

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<b><u>Obligation</u></b>	<b><u>Consent Decree Reference</u></b>	<b><u>Deadline (Black)</u></b>  <b><u>Completion Date (Red)</u></b>
Complete relocation of discharges from NPDES WV0004201 (Shoemaker) Outlets 003 and 018	¶ 40	September 30, 2011 September 28, 2011
Complete relocation of discharge from NPDES WV1011456 (Windsor) Outlet 001	¶ 40	October 31, 2011 July 11, 2011
Submit Quarterly Report	¶ 42	October 31, 2011 October 28, 2011
Achieve compliance with final effluent limits for chloride for the Shoemaker Pipeline discharges to the Ohio River	¶ 41	October 31, 2011 October 20, 2011
Achieve compliance with final effluent limits for chloride for the Windsor Pipeline discharges to the Ohio River	¶ 41	October 31, 2011 October 31, 2011
Submit Quarterly Report	¶ 42	January 31, 2012 January 27, 2012
Submit Quarterly Report	¶ 42	April 30, 2012 April 27, 2012
Submit Quarterly Report	¶ 42	July 31, 2012 July 27, 2012
Submit Quarterly Report	¶ 42	October 31, 2012 October 31, 2012
Submit Quarterly Report	¶ 42	January 31, 2013 January 29, 2013
Complete construction of pipeline collection system	¶ 25	January 21, 2013 January 18, 2013
Achieve mechanical completion of construction of the Treatment Plant	¶ 25	January 21, 2013 January 21, 2013
Submit Quarterly Report	¶ 42	April 30, 2013 May 10, 2013
Complete Commissioning of the Treatment Plant	¶ 25	May 13, 2013 May 13, 2013



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<b><u>Obligation</u></b>	<b><u>Consent Decree Reference</u></b>	<b><u>Deadline (Black)</u></b>  <b><u>Completion Date (Red)</u></b>
Complete training of Treatment Plant Operators	¶ 25	May 13, 2013 May 13, 2013
Commence operation of the Treatment System	¶ 25	May 30, 2013 May 30, 2013
Achieve compliance with the Chloride Limits at the Monongahela Basin Discharges and the Treatment Plant	¶ 9 and ¶ 25	May 30, 2013 May 30, 2013
Monitor specific conductance at certain Treatment Plant process locations or 90 days after commencing operation of the Treatment System	¶ 27.a.	May 31, 2013 through August 30, 2013 Ongoing
Collect daily samples of specified water sources at the Treatment System for analysis of specific conductance, TDS and chloride; establish a specific conductance/chloride and specific conductance/TDS relationship for 30 days after commencing operation of the Treatment System	¶ 27.b.	May 31, 2013 through June 30, 2013 June 30, 2013
Submit results of the Paragraph 27.a. and 27.b. monitoring to WVDEP and EPA every two weeks (modified to the 15 <sup>th</sup> and last day of each month).	¶ 27.c.	15 <sup>th</sup> and last day of each month following monitoring Ongoing

## V. Exceedances of Interim Instream Limits

There were no exceedances of the interim instream limits in the second quarter of 2013.

## VI. Noncompliance with Consent Decree Requirements

There were three occasions when continuous stream monitoring was not provided at the managed discharge sites. One incident was on May 7, 2013, at the Sugar Run Llewellyn

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managed discharge site; one was at the Llewellyn managed discharge site on May 17 and 18, 2013, and one was at the Sugar Run managed discharge site on May 24, 2013. Copies of Notices of Noncompliance for these incidents are attached. These incidents are subject to stipulated penalties of \$1000 per day pursuant to Paragraph 56 of the Consent Decree. The stipulated penalties become payable if EPA or WVDEP demands payment pursuant to Paragraph 58 of the Consent Decree.

CONSOL's Quarterly Report for the first quarter of 2013 was submitted ten days late. This noncompliance is subject to stipulated penalties of \$250 per day pursuant to Paragraph 57 of the Consent Decree. The stipulated penalties become payable if EPA or WVDEP demands payment pursuant to Paragraph 58 of the Consent Decree. A copy of a Notice of Noncompliance for this incident is attached.

### **Certification**

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.



Name: John Owsiany

Title:

Director Water Systems & Operations

Date: July 31, 2013